IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 411 of 2004

Between:
Sri Ambika prasad, S/o.late Gulab Ral, R/o. Hyderabad.
..... PETITIONER

AND

1 Tamilnad Mercantile Bank Ltd, Chenoy Trade Centre Park Lane, S.D.Road, Secunderabad 500 003.
2 Union of India, rep. by its Secretary, Ministry of Finance & Planning (Banking Division), Jeevan Deep Building, Sansad Marg, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent herein in issuing the impugned notice against the petitioner
dated 19-08-2003 under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in requiring the petitioner to pay all the dues to the Bank within 60 days from the impugned notice dated 19-08-2003 and the powers conferred on the respondent under section 13(4) of the said Act including the provisions of Section 13, 17 and 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security of Interest Act, 2002 is illegal, arbitrary, capricious and violative of Rule of law and violative of the fundamental rights under Articles 13 and 14 of the Constitution of India and consequently to set aside the impugned notice dated 19.8.2003 and strike down the provisions of section 13,17 and 34 of the Act.

For the Petitioner: Mr. D.GOPALA KRISHNA, Advocate

For the Respondent No.1: Mr. B. Sai Ram Krishna, Advocate

The Court made the following Order: (Per Sri BRSR,J)

The constitutional validity of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) (for short 'the Act') has been upheld by the Supreme Court in the decision rendered in Transfer Case (Civil) No. 92-95 of 2002 dated 08-04-2004 *(MARDIA CHEMICALS LTD. v. UNION OF INDIA & OTHERS)* except sub-Section (2) of Section 17 of the Act which was declared as *ultra vires* of Article 14 of the Constitution of India.

Following the said decision, the writ petition shall stand dismissed without costs.

However, the petitioner is entitled to avail the remedies as provided for under the Act including filing of appeal under Section 17 of the Act within the period of limitation prescribed therefor to be counted from today. No other relief is granted. Consequently, the interim order earlier granted by this Court shall stand vacated.

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B. SUDERSHAN REDDY,J

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GHULAM MOHAMMED, J

Dt.25-06-2004
ks

..... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Tamilnad Mercantile Bank Ltd, Chenoy Trade Centre Park Lane, S.D.Road, Secunderabad 500 003.

2 Secretary, Ministry of Finance & Planning (Banking Division), Union of India, Jeevan Deep Building, Sansad Marg, New Delhi.

3 2 CD copies.